

# EXHIBIT C

1           IN THE UNITED STATES DISTRICT COURT  
2           FOR THE EASTERN DISTRICT OF OHIO  
3           EASTERN DIVISION

4                               -   -   -

5   IN RE:   NATIONAL               :   MDL NO. 2804  
6   PRESCRIPTION OPIATE       :  
7   LITIGATION                   :

8   -----

9                               :   CASE NO.  
10   THIS DOCUMENT               :   1:17-MD-2804  
11   RELATES TO ALL CASES:

12                               :   Hon. Dan A.  
13                               :   Polster

14                               -   -   -

15                               Friday, August 3, 2018

16                               -   -   -

17   HIGHLY CONFIDENTIAL - SUBJECT TO FURTHER  
18   CONFIDENTIALITY REVIEW

19                               -   -   -

20                               Videotaped deposition of  
21   CHRISTOPHER ZIMMERMAN, taken pursuant to  
22   notice, was held at the law offices of  
23   Reed Smith, LLP, Three Logan Square, 1717  
24   Arch Street, Suite 3100, Philadelphia,  
25   Pennsylvania 19103, beginning at 9:00  
26   a.m., on the above date, before Amanda  
27   Dee Maslynsky-Miller, a Certified  
28   Realtime Reporter.

29                               -   -   -

30

31

32

33                               GOLKOW LITIGATION SERVICES  
34   877.370.3377 ph| 917.591.5672 fax  
35                               deps@golkow.com

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1 marked as Exhibit-5. This is a document  
2 Bates labeled ABDCMDL 00279854 to 65.

3 Have you seen this document  
4 before?

5 A. Yes.

6 Q. Can you tell me what this  
7 is?

8 A. This is our settlement and  
9 release agreement with the DEA for  
10 Orlando distribution center.

11 Q. So as a result of the  
12 enforcement action with the DEA, this was  
13 the agreement that was reached between  
14 AmerisourceBergen and the DEA, correct?

15 MR. NICHOLAS: Object to the  
16 form.

17 THE WITNESS: This is the  
18 agreement, yes, that was made  
19 after the order to show cause.

20 BY MR. PIFKO:

21 Q. Was there any money paid,  
22 under this agreement, from  
23 AmerisourceBergen to the United States  
24 government?

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1 A. No.

2 Q. But as a result of this  
3 agreement, AmerisourceBergen changed its  
4 suspicious order monitoring program,  
5 correct?

6 MR. NICHOLAS: Object to the  
7 form.

8 Go ahead.

9 THE WITNESS: It modified  
10 the existing program, yes.

11 BY MR. PIFKO:

12 Q. Can you tell me how the  
13 agreement modified the existing program?

14 MR. NICHOLAS: Object to the  
15 form.

16 THE WITNESS: So through  
17 negotiations with DEA and in  
18 enhancing our existing order  
19 monitoring program that we had in  
20 place at the time, DEA wanted us  
21 to include a more in-depth due  
22 diligence process in addition to  
23 ensuring that we only distribute  
24 products to licensed individuals.

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1 And they also wanted us to  
2 modify our suspicious order  
3 monitoring program to stop orders  
4 that we believed -- stop orders  
5 that could possibly be suspicious  
6 and then to any suspicious -- any  
7 order we deem suspicious should  
8 not be shipped.

9 BY MR. PIFKO:

10 Q. Did AmerisourceBergen agree  
11 to do that?

12 A. We modified our program per  
13 this agreement, correct.

14 Q. Can we refer to this  
15 agreement as the shipping requirement?

16 MR. NICHOLAS: Object to the  
17 form.

18 BY MR. PIFKO:

19 Q. If I say "shipping  
20 requirement," can we have an  
21 understanding that I'm referring to the  
22 idea that you're not supposed to ship an  
23 order that's deemed to be suspicious?

24 MR. NICHOLAS: I'll object

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1 to the form.

2 I want to understand, are  
3 you asking the witness if  
4 heretofore we can refer to this  
5 agreement as the shipping  
6 requirement? Because if so, I'd  
7 object to that.

8 BY MR. PIFKO:

9 Q. Do you understand the  
10 question?

11 A. Do you want to repeat it?

12 Q. All I'm asking is if, for  
13 ease of reference, going forward, we can  
14 refer to the idea that you don't ship an  
15 order that's been identified as  
16 suspicious as the shipping requirement?

17 MR. NICHOLAS: I'll object  
18 to the form. And the language.

19 THE WITNESS: We never --  
20 the shipping requirement was never  
21 discussed in this document and is  
22 not a term that we had used in  
23 presentations or requirements.

24 We chose, through our work

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1 A. That was the discussion in  
2 our negotiations with DEA, is that you  
3 have to make a business decision whether  
4 you want to complete the transaction.  
5 It's up to the business to make that  
6 decision.

7 Q. What's a business -- what's  
8 a business decision mean?

9 MR. NICHOLAS: Objection.  
10 Object to the form. You're asking  
11 him what the DEA meant by  
12 "business"?

13 MR. PIFKO: I didn't ask him  
14 that. You're telling him what to  
15 say. Stop doing that.

16 THE WITNESS: The  
17 business -- the decision is based  
18 upon the information you have and  
19 whether -- again, this talks --  
20 this isn't talking about shipping  
21 a suspicious order, this is  
22 talking about shipping an order.

23 So if a customer has a  
24 patient need that they need to

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1 told you this?

2 A. If you go to the one above  
3 it, DEA will not tell a distributor you  
4 should or should not ship an order.

5 There's nothing about  
6 suspicious order in that statement.

7 And then the second one is  
8 we have to -- we have to make a decision  
9 on what orders we ship and which orders  
10 we do not ship. We also have to make a  
11 decision which orders are suspicious and  
12 we need to report.

13 Q. You said earlier, just a few  
14 moments ago, that was the discussion in  
15 our negotiations with DEA, is that you  
16 have to make a business decision whether  
17 to -- you want to complete the  
18 transaction.

19 Do you recall saying that?

20 MR. NICHOLAS: I'll object  
21 to this. I'll object to the  
22 practice of apparently trying to  
23 cross-examine Mr. Zimmerman with  
24 testimony he's given in this

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1 fulfill, then we need to make a  
2 decision whether we ship that  
3 product or not. It's our decision  
4 whether we ship the product. It's  
5 not the DEA's decision.

6 BY MR. PIFKO:

7 Q. Is AmerisourceBergen a  
8 for-profit business?

9 A. We are a business that makes  
10 profit, yes.

11 Q. You don't understand this  
12 bullet point to be referring to  
13 suspicious orders?

14 MR. NICHOLAS: Object to the  
15 form.

16 THE WITNESS: No, it's not  
17 in reference to suspicious orders  
18 at all.

19 BY MR. PIFKO:

20 Q. It's just saying the  
21 distributor can decide whether to ship  
22 any order that it is presented with?

23 A. Correct.

24 Q. And you say that the DEA

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1 deposition.

2 This is a 30(b)(6). You're  
3 supposed to be seeking  
4 information.

5 THE WITNESS: I would need  
6 to read two or three questions  
7 before that and after to  
8 understand the context of my  
9 statement. You're reading a  
10 statement. I'm not sure --

11 BY MR. PIFKO:

12 Q. All I'm asking you --

13 A. -- the back-and-forth.

14 Q. -- do you recall saying the  
15 discussion in our -- that was the  
16 discussion in our negotiations with DEA,  
17 is that you have to make a business  
18 decision whether you want to complete the  
19 transaction?

20 A. And what was the question?

21 Q. What I want to know is, what  
22 discussions did you have with the DEA  
23 about making business decisions about  
24 completing transactions?

<p style="text-align: right;">Page 190</p> <p>1 MR. NICHOLAS: Object to the</p> <p>2 form.</p> <p>3 Go ahead.</p> <p>4 THE WITNESS: And so you</p> <p>5 asked me what our discussion is</p> <p>6 about making transactions, and my</p> <p>7 response was it's our decision.</p> <p>8 Yes, I said that.</p> <p>9 BY MR. PIFKO:</p> <p>10 Q. So you said that you</p> <p>11 discussed this business decision in your</p> <p>12 negotiations with DEA.</p> <p>13 MR. NICHOLAS: Object to the</p> <p>14 form.</p> <p>15 THE WITNESS: I said --</p> <p>16 MR. NICHOLAS: This is</p> <p>17 cross-examination.</p> <p>18 Go ahead.</p> <p>19 THE WITNESS: If there's</p> <p>20 confusion, I said that came --</p> <p>21 that was brought up by DEA. It</p> <p>22 wasn't brought up by ABC.</p> <p>23 That was -- that business</p> <p>24 decision context is, you can find</p>	<p style="text-align: right;">Page 192</p> <p>1 the business decision.</p> <p>2 BY MR. PIFKO:</p> <p>3 Q. And when did they tell you</p> <p>4 that? You said in your negotiations?</p> <p>5 A. In negotiations in 2007.</p> <p>6 Q. And they made a presentation</p> <p>7 to you?</p> <p>8 A. In 2005.</p> <p>9 Q. And they used that exact</p> <p>10 language, the business decision, that's</p> <p>11 in quotes?</p> <p>12 A. I believe so. I believe so.</p> <p>13 Q. Do you have a copy of that</p> <p>14 presentation that you believe that DEA</p> <p>15 made to you in your office somewhere?</p> <p>16 A. We may have it somewhere,</p> <p>17 yes.</p> <p>18 Q. Did you make any attempts to</p> <p>19 look for it?</p> <p>20 MR. NICHOLAS: Objection.</p> <p>21 We're making productions as we're</p> <p>22 required to do in this case.</p> <p>23 THE WITNESS: Is there a</p> <p>24 question?</p>
<p style="text-align: right;">Page 191</p> <p>1 previous DEA presentations where</p> <p>2 they make that statement. That</p> <p>3 isn't an ABC term. That was a DEA</p> <p>4 term. Just to clarify the record.</p> <p>5 BY MR. PIFKO:</p> <p>6 Q. That's what I'm trying to</p> <p>7 get at.</p> <p>8 A. Okay. Thanks.</p> <p>9 Q. Is -- so it's your testimony</p> <p>10 that the DEA told you that you must make</p> <p>11 a business decision whether or not to</p> <p>12 ship an order?</p> <p>13 MR. NICHOLAS: Objection.</p> <p>14 Object to the form.</p> <p>15 THE WITNESS: They stated,</p> <p>16 their terms, not mine, that the</p> <p>17 business -- it's up to the</p> <p>18 companies to make a business</p> <p>19 decision of what they ship and</p> <p>20 what they don't ship. They are</p> <p>21 not going to tell a distributor</p> <p>22 what you can ship and what you</p> <p>23 can't ship, which refers back to</p> <p>24 the bullet above, the one about</p>	<p style="text-align: right;">Page 193</p> <p>1 BY MR. PIFKO:</p> <p>2 Q. I asked if you made any</p> <p>3 attempt to look for that document?</p> <p>4 A. No, I did not.</p> <p>5 Q. Is that something -- you</p> <p>6 said you might have that in your office</p> <p>7 somewhere?</p> <p>8 A. I won't have -- no, I don't</p> <p>9 have that in my office. We may have it</p> <p>10 on file or in storage or something. It's</p> <p>11 from years ago.</p> <p>12 MR. NICHOLAS: Again, just</p> <p>13 in case there's any implication on</p> <p>14 the record that we haven't</p> <p>15 produced something we were</p> <p>16 supposed to produce.</p> <p>17 MR. PIFKO: Again, the</p> <p>18 speaking -- I got it. There's no</p> <p>19 implication. The record is what</p> <p>20 it is.</p> <p>21 MR. NICHOLAS: Good. That's</p> <p>22 all I want to hear. There's no</p> <p>23 implication. That's fantastic</p> <p>24 news.</p>

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1 program, that that can adversely impact  
 2 diversion because they could adjust their  
 3 activity to evade your system?  
 4 MR. NICHOLAS: Object to the  
 5 form. Asked and answered.  
 6 THE WITNESS: I don't agree  
 7 with that.  
 8 MR. PIFKO: We're going to  
 9 take a break.  
 10 VIDEO TECHNICIAN: Going off  
 11 the record. 6:02 p.m.  
 12 - - -  
 13 (Whereupon, a brief recess  
 14 was taken.)  
 15 - - -  
 16 VIDEO TECHNICIAN: Back on  
 17 the record at 6:11 p.m.  
 18 BY MR. PIFKO:  
 19 Q. If I wanted to ask you about  
 20 the company's records regarding specific  
 21 sales of controlled substances products  
 22 in the Track 1 jurisdictions -- are you  
 23 familiar with what the Track 1  
 24 jurisdictions are? If I use that term,

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1 does that mean anything to you?  
 2 A. Not exactly. I've seen it,  
 3 but I don't --  
 4 Q. Sorry. Let me ask it a  
 5 different way.  
 6 If I wanted to talk to  
 7 someone who was familiar with the  
 8 company's records of which products they  
 9 shipped to specific customers and amounts  
 10 and when, who would that be?  
 11 MR. NICHOLAS: I'll object  
 12 to the form.  
 13 THE WITNESS: I believe if  
 14 you're just looking for data, it  
 15 would be somebody in our IT  
 16 department.  
 17 BY MR. PIFKO:  
 18 Q. But to understand how the  
 19 system works?  
 20 MR. NICHOLAS: Object to the  
 21 form.  
 22 THE WITNESS: The system --  
 23 the suspicious order monitoring  
 24 system or our operating system?

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1 BY MR. PIFKO:  
 2 Q. Well, okay. Based on your  
 3 production, and we were just looking at  
 4 the SAP and the STAR system, it's my  
 5 understanding that in the STAR system  
 6 time period, there's one document that  
 7 tells you what orders -- what orders were  
 8 placed and whether they were shipped.  
 9 There's another document that tells you  
 10 if there was an investigation, and  
 11 there's another document that tells you  
 12 if there was a report to the DEA.  
 13 Are you familiar with that  
 14 idea?  
 15 MR. NICHOLAS: Object to the  
 16 form.  
 17 THE WITNESS: I don't know  
 18 the specifics of the -- how it was  
 19 developed. I assume you're  
 20 talking about 2007 to --  
 21 BY MR. PIFKO:  
 22 Q. The STAR system from 2007 to  
 23 2012.  
 24 A. Right. I was involved --

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1 when I was negotiating the settlement  
 2 with DEA, our IT group was having  
 3 discussions with DEA as well. And I'm  
 4 not sure how they structured it.  
 5 I'm not sure what your  
 6 question is.  
 7 Q. Is there someone, though,  
 8 from the CSRA who would be familiar about  
 9 how the system works and what the data in  
 10 the different databases reflects?  
 11 MR. NICHOLAS: Object to the  
 12 form.  
 13 THE WITNESS: I am not sure  
 14 who that would be. It would be  
 15 somebody, I would think, in our IT  
 16 group.  
 17 BY MR. PIFKO:  
 18 Q. Is there a specific type of  
 19 title that that person would have?  
 20 MR. NICHOLAS: Object to the  
 21 form.  
 22 THE WITNESS: I don't know  
 23 who would -- I don't know that  
 24 person.